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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,701	12/30/2003	Peter Bressler	6579-149	9213

7590

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Richard R Michaud  
The Michaud-Duffy Group LLP  
306 Industrial Park Road  
Suite 206  
Middletown, CT 06457

EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/749,701

Applicant(s)

BRESSLER ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 1-13-2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6,7 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

1. The amendment filed on 1-13-2005 has been entered.
2. Applicant's election of Species I in the reply filed on 1-13-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 8-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 00/47374.

The '374 reference shows (Figs. 1-5) the claimed invention. Specifically, the '374 reference shows a shaving apparatus comprising one or more razor blades (5) mounted in a razor cartridge (4) that is pivotally mounted in a head assembly (2); a reservoir (21) for containing a non-solid shaving aid material (see the abstract); at least one conduit (44) extending between the reservoir (21) and one or more ports (45); and a pump in fluid communication with one or both of the reservoir (21) and the conduit

(44), wherein the movement of the one or more razor blades (5) actuates the pump, and the pump transfers shaving aid material from the reservoir (21) to the one or more ports (45) as claimed (see lines 26-27 of page 7 and lines 6-9 of page 8), and wherein the pump comprises a mechanism that is reciprocally operable. The mechanism comprises a sleeve (20), a stem/valve (24) disposed in fluid communication with the reservoir (21) and translating along a length of the sleeve (20) in a first direction to provide a pressure stroke, and a spring (28) operably disposed at the sleeve (20) to bias the stem (24) in a second direction to provide a return stroke (see page 8, line 13) as claimed.

3. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Miyauchi (U.S. Patent No. 3,417,468).

Miyauchi shows a shaving aid material pump comprising a reciprocating mechanism including a sleeve (22) and a stem (24) translating along at least a portion of a length of the sleeve (22) in a first direction to provide a pressure stroke; a biasing mechanism including a spring (23) operably disposed at the sleeve (22) and operably disposed at the stem (24) to bias the stem (24) in a second direction to provide a return stroke; a conduit (27); and a valve (30) as claimed.

4. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Resnick et al. (U.S. Patent No. 2,686,361).

Resnick et al. show the claimed invention. In one interpretation, the reciprocating mechanism comprises a sleeve (38), a stem (41) and a spring (40) as claimed. In

another interpretation, element (41) is considered as a valve that is in fluid communication with the reservoir (10) as claimed.

## Remarks

Applicant's arguments filed 1-13-2005 have been fully considered but they are not persuasive.

Applicants argue, at page 7 of the amendment, the '374 reference fails to disclose a pump, and the device of the '374 reference is simply a valve. Applicants further argue a pump is a device that transfers a fluid by a reciprocating action, a rotary action or a centrifugal action. Applicants' argument appears to be directed primarily to the use of the term (i.e. pump vs. valve) rather than to delineating claimed structure not shown by the prior art. Clearly, the device of the '374 reference is fully capable of transferring a fluid (i.e. a lubricating fluid) by a reciprocating action (i.e. the up and down motion of the stem/valve 24, see Figs.4 and 5), and by Applicants' own definition it's a PUMP.

Applicants again argue, at pages 8-10, Miyauchi and Resnick show a valve not a pump as claimed. Examiner disagrees. In Miyauchi, the stem (24) translates along a portion of a length of the sleeve (22) in a reciprocating action, and is thus considered as a pump action by Applicants' own definition. Also, in Resnick et al., the stem (41) is capable of reciprocating action (i.e. depressable by element 41 and returning to

an undepressed condition by spring 40), and thus considered as a pump action by Applicants' own definition.

#### **Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer  
March 4, 2005

*H Payer*

~~ALLAN N. SHOAP~~  
~~Primary Examiner~~